

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2608 of 1999

to

FIRST APPEAL No 2614 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and

MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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SPECIAL LAND ACQUISITION OFFICER

Versus

BACHUJI SANKAJI  
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Appearance:

Mr.Premal Joshi, learned A.G.P.  
for appellants  
MR AJ PATEL for Respondents  
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CORAM : MR.JUSTICE M.R.CALLA and  
MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 22/12/1999

COMMON ORAL JUDGEMENT(Per M.R.Calla,J)

Admit. Mr.A.J.Patel accepts service on behalf of respondents. Petitioners have submitted that these matters may be decided right today. Whereas all these seven First Appeals are directed against the common order passed by the Reference Court i.e. Special Judge (LAR) & 3rd Extra Assistant Judge,Ahmedabad (Rural) at Mirzapur in Land Acquisition Cases Nos.1338/96 (Main), 1339/96, 1340/96, 1341/96, 1342/96, 1343/96 and 1344/96 and the impugned order is challenged on the same grounds in all these cases, we propose to decide these seven First Appeals by this common judgment and order.

There is no dispute between the parties that the lands of the claimants situated in village Valana, Taluka Viramgam, District Ahmedabad were acquired for the same purpose i.e. Narmada Project Canal. Notification under S.4 was issued on 27.8.92 and Notification under S.6 was issued on 15.5.93.The possession of the land in question had also been taken over on 13.9.96. Claimants had claimed the compensation at the rate of Rs.50/- per sq.mt. Special Land Acquisition Officer awarded compensation at the rate of Rs.1.12 Ps. per Sq.Mt. by his award dt.31.8.94.When the matter was taken to the Reference Court, the Reference Court granted additional compensation of Rs.12/- per sq.mt. making the compensation payable at the rate of Rs.13.12 Ps. per Sq.Mt. The claimants have relied upon the copies of the judgments, which were exhibited as Exhs.33 and 34 in Land Acquisition Case No.543/88 and one more judgment Exh.35 in Land Acquisition Case No.1839/96. One Jivabhai Virsangbhai was examined as Exh.36 on behalf of the claimants. Mr. A.J. Patel has pointed out that in Land Acquisition Case No.543/88, to which reference has been made herein above as Exh.34, the Notification under S.4 was issued on 13.5.87 and in that case compensation was granted at the rate of Rs.16/- per Sq.Mt. The learned A.G.P. has submitted that in that case, the land under acquisition was of village Viramgam itself whereas the village Valana, the land of which is under acquisition in the instant case, is situated at a distance of about 8 Kms. from Viramgam and, therefore, this Judgment should not have been relied upon. However, we find that in the present case, the compensation has been granted at the rate of Rs.13.12 Ps. per Sq.Mt. and, therefore, it cannot be said that the Reference Court has not kept in view the situation of the land under acquisition in the present case, which is at a distance of 8 Kms. from Viramgam itself and it appears that keeping in view this fact, the compensation was not granted at the rate of Rs.16/- per Sq.Mt., but it has been kept on lower side at Rs.13.12 Ps. per Sq.Mt. It is also noticed that in case

of judgment Exh.34, the Notification under S.4 had been issued on 13.5.87 whereas in the present case the Notification under S.4 had been issued after a period of nearly five years i.e. on 27.8.92. Besides this, Mr.A.J.Patel has placed reliance on an unreported decision of this Court rendered in First Appeals Nos.2830 and 2832 of 1999 by Division Bench as a common order on 3.11.99, wherein this Court rejected the Appeals in which the grievance was raised against the grant of compensation at the rate of Rs.1.12 Ps. + Rs.11 = Rs.12.12 per Sq.Mt. and the interest on the solatium was refused. The land, which was concerned in First Appeal Nos.2830 and 2832 of 1999 decided on 3.11.99, was also of the village Valana and the Notification in that case under S.4 had been issued on 29.8.91 i.e. about an year earlier than the date of Notification under S.4 in the present case. In this view of the matter, when there was a difference of one year in the issue of the Notification under S.4, if the Reference Court has granted compensation at the rate of Rs.13.12 Ps. per Sq.Mt., the same cannot be said to be unreasonable and in the facts and on the basis of the material available on record, we find that the award of compensation at the rate of Rs.13.12 Ps. per Sq.Mt. in the instant case cannot be said to be unreasonable or unfair and it hardly warrants any interference. So far as the request of the claimants for grant of interest on solatium is concerned, the same cannot be accepted in view of the existing position of law as laid down by the Supreme Court, according to which the interest cannot be paid on solatium. However, Mr.A.J.Patel has submitted that the matter has been referred to a larger Bench before the Supreme Court and, therefore, he does not give up his claim for interest on solatium. Be that as it may, the fact remains that as the position of law stands today, there is no question of grant of interest on solatium.

We do not find any justification to interfere with the order, as has been passed by the Reference Court. The claimants shall be entitled to be paid the compensation at the rate of Rs.13.12 Ps. per Sq.Mt. as awarded by the Reference Court alongwith all other benefits, as have been granted by the Reference Court. The acquiring body shall deposit the amount of compensation with interest and other statutory benefits within a period of three months from the date the certified copy of this order is produced by any of the parties before them. All these seven Appeals fail and are hereby dismissed. No order as to costs. Direct service is permitted.

